

The opinion in support of the decision being entered today was *not* written for publication in a law journal and is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SHEILA D. FOX-LOVELL

Appeal 2007-0765
Application 09/817,826
Technology Center 3700

Decided: March 21, 2007

Before ANITA PELLMAN GROSS, JENNIFER D. BAHR, and
LINDA E. HORNER, *Administrative Patent Judges*.

GROSS, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Fox-Lovell (Appellant) appeals under 35 U.S.C. § 134 from the Examiner's rejection of claims 2 through 11 and 15. Claims 12 through 14 have been withdrawn from consideration, and claim 1 has been canceled.

Appellant's invention relates to a customer registration system that improves confidentiality of the customer at the time of registration. Claim 15 is illustrative of the claimed invention, and it reads as follows:

15. A customer registration system for improving the protection of the confidentiality of information provided by a customer at the time of registration, said system comprising:

at least one first substrate locatable at a first location;

a plurality of registration labels detachably adhered to said first substrate, each of said labels having one of a series of first indicia identifying the position of each of said labels in an uninterrupted sequence, each of said labels further having at least one field within which the information is to be entered in writing by the customer, said first location being a location sufficiently accessible to the customer to permit the customer to view said labels detachably adhered to said first substrate and to enter information in said field of one of said labels while said one of said labels remains detachably adhered to said first substrate, and

a registration log having at least one second substrate, said second substrate having a plurality of label-retaining spaces and a series of second indicia, said second indicia corresponding to said first indicia to associate each one of said spaces with a respective corresponding one of said labels according to said sequence, each said one of said spaces including an area to which said respective corresponding one of said labels may be adhered after the information has been entered in writing in said field by the customer and said corresponding one of said labels has been detached from said first substrate so that said labels adhered to said second substrate provide an original record of said writing, said second substrate being locatable at a second location at a time when said first substrate is located at said first location, said second location being a location at which the entered information on any said labels adhered to said second substrate is out of view of the customer in order to protect the confidentiality of the information.

The prior art references of record relied upon by the Examiner in rejecting the appealed claims are:

Baldwin	US 4,907,904	Mar. 13, 1990
Jackson	US 5,795,090	Aug. 18, 1998

Claims 2 through 11 and 15 stand rejected under 35 U.S.C. § 103 as being unpatentable over Baldwin in view of Jackson.

We refer to the Examiner's Answer (mailed July 6, 2004) and to Appellant's Brief (filed May 12, 2004) for the respective arguments.

SUMMARY OF DECISION

As a consequence of our review, we will reverse the obviousness rejection of claims 2 through 11 and 15.

OPINION

Appellant contends (Br. 17) that the Examiner "dismisses the patentable significance of the recited 'first indicia identifying the position of each of said labels in an interrupted sequence...' and the recited 'second indicia corresponding to said first indicia....'" Appellant argues (Br. 17) that the first and second indicia in independent claim 15 "are functionally related to their respective substrates." Further, Appellant contends (Br. 18) that neither reference discloses or suggests second indicia on a second substrate that corresponds with first indicia on a first substrate. We agree with Appellant.

The Examiner (Answer 4) associates Baldwin's retaining board 20 and substrate 30 (in book 10) with the claimed first and second substrates, respectively. The Examiner (Answer 4) refers to the labels that are "parked"

on board 20 (see col. 2, ll. 64-66) as the labels adhered to the first substrate. The Examiner asserts (Answer 5) that "Baldwin discloses the claimed invention except for the specific arrangement and/or content of indicia . . . set forth in the claim(s)." The Examiner concludes (Answer 5) that providing the claimed indicia would have been obvious "since it would only depend on the intended use of the assembly and the desired information to be displayed." The Examiner further characterizes the indicia as printed matter that is not functionally related to the substrate and, therefore, asserts that it cannot distinguish the invention from the prior art in terms of patentability.

Claim 15, in pertinent part, recites "each of said labels having one of a series of first indicia identifying the position of each of said labels in an uninterrupted sequence" and "a plurality of label-retaining spaces and a series of second indicia, said second indicia corresponding to said first indicia to associate each one of said spaces with a respective corresponding one of said labels according to said sequence." The indicia define the locations of the labels on the substrates and function to maintain the chronological order in which the labels were used. The indicia are very much functionally related to the labels and the substrates. Thus, the Examiner erred in characterizing the indicia as non-functional descriptive matter.

Additionally, the Examiner asserts (Answer 6) that Jackson discloses first indicia identifying the position of each label in an uninterrupted sequence. The Examiner, however, points to nothing that would suggest corresponding second indicia. Further, we find no reason why one would use first and second indicia as recited in the claims in the address book of

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Baldwin. The purpose of Baldwin's holding board 20 is to allow a user to move labels around. Therefore, indicia identifying a certain position would seem contrary to the teachings of Baldwin. Accordingly, the Examiner has failed to establish a prima facie case of obviousness, and we cannot sustain the rejection of claims 2 through 11 and 15.

ORDER

The decision of the Examiner rejecting claims 2 through 11 and 15 under 35 U.S.C. § 103 is reversed.

REVERSED

vsh

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